IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 17832 of 2004

Between:

M/s. Kanaka Enterprises, Vuyyuru,
Krishna District. Rep. by its Proprietor
Mrs. T. Kanaka Durga,

W/o. T.V. Ranga Rao, Aged 32 Years. **..... PETITIONER**

AND

1.The Additional Commissioner of

Commercial Taxes (Legal),

O/o. The Commissioner of Commercial Taxes,
Excise & Commercial Taxes Building,

M.J. Road, Nampally, HYDERABAD.
2.The Appellate Deputy Commissioner of

Commercial Taxes, VIJAYAWADA, Krishna District.
3.The Commercial Tax Officer, VUYYURU,
Krishna District. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction particularly one in the nature of Writ of Mandamus declaring the impugned proceedings of the first respondent in the CCT's Ref.No.LV(2)/2344/2004 dated 17-09-2004 dismissing the stay petitioner filed

by the petitioner firm for assessment years 2001-2002, 2002-2003 and 2003-2004 as illegal, arbitrary amounting to double taxation total taxation in view of the revisions /proceedings issued by the revisional assessing authorities on the manufactures levying tax on the alleged rental values @ 12% in terms of Entry-21 of the 6th Schedule to the APGST Act and consequently directing the third respondent not to take coercive steps for recovery of the tax in dispute for the above mentioned assessment years, pending disposal of the appeal petitions on the file of Sales Tax Appellate Tribunal.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court at the stage of admission made the following :

ORDER: (PER Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending an appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal. However, it is made clear that, if the petitioner has already deposited any amount, the same shall be given credit to, while caliculating 50% of the disputed tax liability.

Writ Petition is disposed of accordingly. No costs.

(BILAL NAZKI, J)

4th October, 2004

(S.ANANDA REDDY, J)

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Copy to:

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Krishna District.

4.Two CCs to the G.P. for Commercial Tax,

High Court Buildings, High Court of A.P.,

Hyderabad (O.U.T)

5.Two CD copies.